

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JOSHUA LINER,

Plaintiff,

v.

08-CV-1386

BRIAN FISCHER, Commissioner;  
DALE ARTUS, Superintendent;  
SCOTT GIGUERE, Law Library Officer;  
THEODORE SWEET, Corrections Officer; and  
JOHN DOE,

Defendants.

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THOMAS J. McAVOY  
Senior United States District Judge

**DECISION and ORDER**

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

Defendants Artus, Fisher, and Sweet filed a motion for summary judgment pursuant to Fed. R. Civ. P. 56 seeking dismissal of Plaintiff's complaint. The Report-Recommendation dated August 4, 2010 recommended that the Defendants' motion be granted. Plaintiff filed objections to the Report-Recommendation, essentially raising the same arguments presented to the Magistrate Judge.

When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After

such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

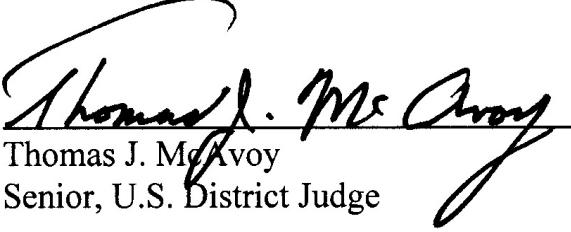
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff's objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Baxter for the reasons stated in the Report-Recommendation.

It is therefore

**ORDERED** that Defendants' Motion for Summary Judgement (Dkt. No. 36) is **GRANTED**, and the Plaintiff's Complaint be **DISMISSED** as to Defendants Artus, Fisher, and Sweet.

IT IS SO ORDERED.

Dated: September 22, 2010



Thomas J. McAvoy  
Senior, U.S. District Judge